

21 C.J.S. Courts § 95

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

J. Objections to Jurisdiction; Estoppel or Waiver of Objections

§ 95. Objections to subject matter jurisdiction; waiver of objections—Particular case jurisdiction

Topic Summary | References | Correlation Table

West's Key Number Digest

West's Key Number Digest, Courts 37(1)

Some states recognize an exception whereby jurisdiction of a particular case, as contrasted with general subject matter jurisdiction, is subject to waiver.

While the requirement of subject matter jurisdiction cannot be waived by any party¹ and may be raised at any time,² some jurisdictions apply a rule that "particular-case" jurisdiction, as dependent on the particular facts of the specific case as opposed to the class of cases,³ is subject to waiver if not properly raised⁴ or timely raised.⁵ Under this view, subject matter jurisdiction is question of the court's jurisdiction in "this kind of case" as opposed to "this case,"⁶ the latter being subject to waiver while the former is not.⁷

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Footnotes

1 § 71.

2 § 94.

3 § 14.

4 III.—601 West 81st Street Corp. v. City of Chicago, 129 Ill. App. 3d 410, 84 Ill. Dec. 690, 472 N.E.2d 827
 (1st Dist. 1984).

Ind.—Burcham v. Metropolitan Bd. of Zoning Appeals Div. I of Marion County, 883 N.E.2d 204 (Ind. Ct. App. 2008).

Iowa—Cooper v. Kirkwood Community College, 782 N.W.2d 160, 257 Ed. Law Rep. 454 (Iowa Ct. App. 2010).

Ky.—Basin Energy Co. v. Howard, 447 S.W.3d 179 (Ky. Ct. App. 2014).

N.Y.—Burke v. Aspland, 56 A.D.3d 1001, 867 N.Y.S.2d 759 (3d Dep't 2008).

Question depends on particular facts

Ky.—Harrison v. Leach, 323 S.W.3d 702 (Ky. 2010).

5 Ind.—In re B.J.N., 19 N.E.3d 765 (Ind. Ct. App. 2014).

6 § 14.

7 N.Y.—Burke v. Aspland, 56 A.D.3d 1001, 867 N.Y.S.2d 759 (3d Dep't 2008).

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